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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/791,639	03/01/2004	Steve Roberson	141803-1010	3088
24504 7590 12/21/2006 THOMAS, KAYDEN, HORSTEMEYER & RISLEY, LLP 100 GALLERIA PARKWAY, NW STE 1750 ATLANTA, GA 30339-5948			EXAMINER WALTERS, JOHN DANIEL	
			ART UNIT 3618	PAPER NUMBER
			MAIL DATE 12/21/2006	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/791,639

Applicant(s)

ROBERSON, STEVE

Examiner

John D. Walters

Art Unit

3618

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 October 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 22-44 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) 22-25 is/are allowed.
- 6) ☒ Claim(s) 26 and 28-44 is/are rejected.
- 7) ☐ Claim(s) 27 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 April 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claims 22 – 44 have been examined. Claims 1 – 21 have been canceled by Applicant.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 29 and 34 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 29 and 34 recite the limitation of a cross member extending perpendicularly from a plane created by a first and a second leg. Applicant's drawings clearly show said cross member extending parallel to and within a plane created between said first and said second leg. Additionally, Applicant's specification makes no mention of said cross member extending perpendicularly from a plane created by a first and a second leg.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 26, 28, 30 – 33 and 35 – 44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cory et al. (4,373,737) in view of Giles (6,045,022) and Lange (4,593,841). Cory discloses a game carrier comprising:

- a first extendable member, i.e. leg (Fig. 2, item 10);
- a second extendable member, i.e. leg (Fig. 2, item 12);
- wherein a roller is coupled to a bottom end of said extendable members (Fig. 2, item 38);
- wherein a connection point is located on each extendable member proximate to said roller (Fig. 2, at the inner interface between items 10 or 12 with item 36);
- wherein said rollers are positioned at “an opposite end from each other”, i.e. right and left end (Fig. 2);
- wherein said roller cannot pivot about a vertical axis (Fig. 2);
- a handle having a linkage, i.e. connection, to the top ends of said extendable members (Fig. 2, item 30 at the top of items 10 and 12);
- a plurality of securing points located on said extendable members (Fig. 2, at the inner interface between items 10 and 12 with items 30);
- a first cross member (Fig. 2, item 36);
- a second cross member, i.e. a removable stabilizer bar (Fig. 2, item 30).

Cory does not disclose the use of flexible straps or members forming a lower platform. Giles, however, discloses a bicycle carrier comprising:

- one or more bands (Fig. 1, item 42);

- wherein said band is adjustable (column 5, lines 60 and 61);
- wherein said band is a “bungee” cord (column 5, lines 60 and 61);
- “securers” coupled to a first and a second extendable member (Fig. 1, item 14);
- wherein said receptacle member is an eyelet mechanism having a substantially straight portion (Fig. 1, item 14).

It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to combine the members and straps of Giles with the cart of Cory in order to provide a more stable resting place for items as well as a more secure method of holding said items.

Cory in view of Giles does not disclose a handle with a flexible linkage. Lange, however, discloses a pack cart comprising:

- a handle (Fig. 1, item 53);
- wherein said handle has a flexible linkage (Fig. 1, items 50 and 51);
- wherein said linkage is attached at a pivotable connection point (Figs. 1 and 7);
- wherein said linkage is a rod with connectors (Fig. 6);
- wherein said handle may be oriented to be essentially parallel to a first and second extendable member and may be oriented to be essentially perpendicular to a first and second extendable member (Fig. 1).

It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to combine the handle of Lange with the cart of Cory in view of Giles in order to provide a modifiable and resilient connection between said handle and said cart.

In regards to claims 36, 39, 42 and 44, a change in size is generally recognized as being within the level of ordinary skill in the art. *In re Rose*, 105 USPQ 237 (CCPA 1955).

Allowable Subject Matter

Claims 22 – 25 are allowed.

Claim 27 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

New grounds for rejection have been necessitated by Applicants claim amendments.

Applicant states, "None of the cited references suggest that the handle may be positioned substantially parallel to the collapsed extendable members..."

Lange shows a handle attached to a wheeled frame via a flexible ribbon style cable. A handle so attached is capable of being oriented in a myriad of positions with respect to said frame, including in a parallel orientation with side rails of said frame.

For this reason, the rejections stand.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

- Skyes (3,007,710) discloses a collapsible cart;
- Davis (4,040,642) discloses a collapsible luggage carrier;
- Walker (4,205,863) discloses a wheeled carrier for suitcases;
- Clemence et al. (4,915, 408) disclose a collapsible trolley;
- Cheng (5,127,664) discloses a trolley with improved telescopic tubes;
- Wong (6,095,534) discloses a collapsible luggage cart;
- Tsai (6,357,080) discloses a multi-section retractable handle;
- Forman (2,729,460) discloses a collapsible luggage dolly;
- Hyman (Re. 28,067) discloses a collapsible rod.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John D. Walters whose telephone number is (571) 272-8269. The examiner can normally be reached on Monday - Friday, 8am - 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Ellis can be reached on (571) 272-6914. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

John D. Walters
Examiner
Art Unit 3618

JDW



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